THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.15301 of 2004

Dated: 20-07-2007

Between:

Sheep Breeding Cooperative Society, rep.by its President Pusala.

..... PETITIONER

AND

The Revenue Divisional Officer, Peddapalli, Karimnagar and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.15301 of 2004

ORDER:

Sheep Breeding Cooperative Society, Pusala Village, Sultanabad Mandal, Karimnagar District, is seeking a writ of Mandamus declaring the action of the respondents, namely, the Revenue Divisional Officer, Peddapalli, the Mandal Revenue Officer, Sultanabad Mandal, and the Gram Panchayat, Pusala Village, as arbitrary and illegal and for a consequential direction to the respondents not to interfere with its possession and construction of building in the land comprised in survey No.229 situated at Shastrinagar, Pusala Village.

The brief fact of the matter is as follows. The petitioner, which is a cooperative society, so as to construct a community hall approached first respondent, who allotted Acs.0.04 guntas of Government land in survey No.229. In obedience to the orders of first respondent, second respondent handed over possession of said land and the Zilla Parishad, Karimnagar, gave a grant of Rs.1,00,000/-. The petitioner then approached third respondent for building permission. The permission was neither granted nor rejected. In the meanwhile, the Zilla Parishad informed the petitioner that the grant will be withheld for non-construction of the building. The petitioner was, therefore, compelled to start construction and on 20.08.2004 and 21.08.2004, third respondent allegedly caused obstruction. The petitioner contends that under Section 127(3) of the Andhra Pradesh Panchayat Raj Act, 1994, when permission is not granted within fifteen days, it shall be deemed to have been granted and therefore, the action of third respondent is illegal.

This Court, while admitting the writ petition on 27.08.2004, passed interim order in W.P.M.P.No.19837 of 2004 directing that the petitioner shall not be dispossessed nor the land allotted to the petitioner shall be assigned to third parties unless a notice is issued to the petitioner. Respondents 1 and 2 now moved this Court by filing W.V.M.P.No.761 of 2007. Having regard to the short point involved in the matter, the writ petition itself is heard finally and is being disposed of this order.

In the counter-affidavit filed by second respondent, allotment of Ac.0.04 guntas of Government land to the petitioner is admitted. However, in paragraphs 3,4 and 5, it is stated as under.

> It is submitted that as contended by the petitioner it is not true to say that the respondent authorities have obstructed the petitioner in continuing construction work. In fact the Revenue Authorities never obstructed the petitioner in continuing their construction work and no notice was issued to stop the work, the work of construction of "YADAV COMMUNITY HALL" is

completed.

It is submitted that the Revenue Authorities never obstructed the construction work and not issued any memo to the petitioner to stop the construction work.

It is submitted that the respondent authorities have never obstructed the petitioner society in continuing their construction work.

The learned counsel for the petitioner, the learned Assistant Government Pleader for Revenue (General-T) and the learned standing counsel for third respondent are heard.

There is no denial that after obtaining the interim orders, the petitioner constructed the building. There is also no denial that respondents 1 and 2 never interfered with the construction activity. The learned standing counsel for third respondent also submits that when the building is already constructed, the question of third respondent interfering with the construction activity does not arise and it is a false allegation.

After giving due consideration to the rival submissions, this Court is convinced that the writ petition is filed making false allegations with a view to complete the construct without obtaining permission. If the petitioner has constructed the building in contravention of the plan submitted to the Gram Panchayat, the Gram Panchayat should take necessary action for demolition of the illegal construction after issuing notice to them. Insofar this writ petition is concerned, it is wholly misconceived and accompanied by a false affidavit. In such a case, the petitioner shall be mulcted with exemplary costs.

In the result, the writ petition is dismissed with exemplary costs of Rs.5,000/- (Rupees five thousand only) payable by the petitioner society to third respondent.

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(**V.V.S.RAO, J**)

20th July, 2007
ghn